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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,480	02/27/2002	Kazuyuki Miya	L9289.02130	3434
24257	7590	10/19/2005		
			EXAMINER	
			ISMAIL, SHAWKI SAIF	
			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/069,480	MIYA ET AL.	
	Examiner Shawki S. Ismail	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 July 2005.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12-25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 12-25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 July 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

### **RESPONSE TO AMENDMENT**

1. This communication is responsive to the amendment received on July 25, 2005. Claims 1-11 were cancelled, claims 12-25 were newly added. Claims 12-25 are pending.

### **Drawing(s)**

2. The corrected drawings received on July 25, 2005 are hereby acknowledged and accepted by the examiner.

### **The New Ground(s) of Rejection**

3. Applicant's amendment necessitated the new ground(s) of rejection in the Office Action.

### **Claim Rejections - 35 USC §102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 12-25 are rejected under 35 U.S.C. 102(b) as being anticipated by **St-Pierre** (St-Pierre) U.S. Patent No. **5,883,888**.

6. As to claim 12, St-Pierre teaches a fast packet transmission system comprising a communication terminal and a base station, wherein:

the communication terminal transmits base station selection information, which indicates a base station that is selected according to a channel state, and at least one of

a packet number and a check signal, which indicates correct reception of a packet, to the selected base station over an uplink (col. 8, lines 37-46, mobile station transmits a message to the selected base station as needing to adjust timing and also indicated retransmission for specific packet with a given sequence number); and

in response to receiving the uplink transmission, the base station indicated by the base station selection information transmits to the communication terminal, over a downlink, a packet identified by the received packet number or a packet identified by a packet number determined from the received check signal (col. 8, lines 46-62, responsive thereto, the selected base station adjusts the timing of the signal and retransmits the identified packet with the given sequence number to the mobile station).

7. As to claim 13, St-Pierre teaches the system of claim 12, wherein the communication terminal transmits the packet number or the check signal only when the communication terminal selects a different base station, than was used previously, to transmit the downlink signal (col. 8, lines 37-62, either base station on or base station 2 are selected by the mobile station).

8. As to claim 14, St-Pierre teaches the system of claim 12, wherein the communication terminal transmits an adaptive modulation pattern to the selected base station with the packet number or the check signal (col. 8, lines 37-62).

9. As to claim 15, St-Pierre teaches the system of claim 12, wherein the communication terminal transmits an adaptive modulation pattern, with the packet number or the check signal, to the selected base station only when the communication

terminal selects a different base station, than was used previously, to transmit the downlink signal (col. 8, lines 37-62).

10. As to claim 16, St-Pierre teaches the system of claim 12, wherein only when both: (1) the communication terminal selects a different base station, than was used previously, to transmit the downlink signal and (2) a packet received by the communication terminal from the previously used base station contains an error, does the communication terminal transmit to the selected base station, with the packet number or the check signal, both an adaptive modulation pattern and a request for retransmission of the errantly received packet (col. 8, lines 37-62, the error being that the sequence numbers do not match).

11. As to claim 17, St-Pierre teaches the system of claim 12, wherein the communication terminal applies greater power to the transmission of the packet number or the check signal than to the transmission of other information (col. 8, lines 27-46)

12. As to claim 18, St-Pierre teaches the system of claim 12, wherein the selected base station terminates transmission of all packets that are received from a control station over a predetermined number of frames (see Fig. 2, col. 6, lines 4-12).

13. Claims 19-25 do not teach or define any new limitations above claims 12-18 and therefore are rejected for similar reasons.

### **Response to Arguments**

14. Applicants' arguments with respect to claims 1-11 filed on January 10, 2005 have been fully considered but they not deemed to be persuasive.

15. In the remarks, the applicant argues in substance that:

(A) Argument: St-Pierre fails to suggest the combined features recited in claim 12 a communication terminal that selects a base station to communicate a packet and a base station that, if identified as the selected base station in a message from the communication terminal, transmits a packet that is referenced in the message identifying the selected base station.

Response: St-Pierre teaches that if the frame sequence number does not match, the mobile station transmits a message indicating the requested frame from a base station that is identified as requiring timing adjustments (selected base station). The base station responsive to being identified as the one needing timing adjustments, adjusts the timing of the duplicate communication transmission to provide for substantially synchronous reception at the mobile station (col. 8, lines 37-62). Therefore, the message that the mobile station transmits to the base station requiring it to adjust its timing and the base station transmitting the requested frame meets the scope of the claimed limitation.

(B) Argument: St-Pierre does not suggest a communication terminal that transmits both an indicator of a selected base station and an indicator of the next packet to be transmitted by the selected base station.

Response: St-Pierre teaches wherein a mobile station transmits a message to a specific base station identifying it as the one needing timing adjustments. The mobile station also indicated retransmission of the frame that contains the mismatched sequence number (col.8, lines 37-62). Therefore, the transmitted message to the base station and the request for the frame meets the scope of the claimed limitation.

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawki S Ismail whose telephone number is 571-272-3985. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shawki Ismail  
Patent Examiner  
October 17, 2005

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PRIMARY EXAMINER